

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRENT MORRIS,

Plaintiff,

vs.

THE ORLEANS HOTEL AND CASINO, *et al.*,

Defendants.

Case No. 2:12-cv-01683-JCM-CWH

ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (#1), filed September 24, 2012. Plaintiff is proceeding in this action *pro se*. It appears Plaintiff is incarcerated. His application to proceed *in Forma Pauperis* was submitted pursuant to 28 U.S.C. § 1915(a)(1) and (2) and Local Rules for Special Proceedings and Appeals ("LSR") 1-1 and 1-2.

Pursuant to 28 U.S.C. § 1914(a), a filing fee of \$350.00 is required to commence a civil action in federal district court. The court may only authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who submits an affidavit that includes a statement showing the person is unable to pay such costs. 28 U.S.C. § 1915(a)(1); *see also* LSR 1-1 and 1-2. Because Plaintiff is incarcerated, the Court may waive the filing fee only if the prisoner-plaintiff strictly complies with the *in forma pauperis* filing requirements imposed by the Prison Litigation Reform Act. *See* 28 U.S.C. § 1915; *Page v. Torrey*, 201 F.3d 1136, 1139 (9th Cir. 2000). These include the requirements that the prisoner-plaintiff seeking to proceed *in forma pauperis* 1) submit a certified copy of his prisoner trust fund account statement for the previous six months or, if incarcerated less than six months, the prisoner's account activity during the time of incarceration, 2) pay the full amount of the filing fee, and 3) if seeking to file an action regarding


1 prison conditions first exhausts available administrative remedies, *see* 28 U.S.C. § 1915(a)-(b);
2 *Page*, 201 F.3d at 1139.

3 Here, Plaintiff's certified copy of his prisoner trust account includes the six months prior to
4 July 2012. The application was filed in late September meaning there are two months of account
5 activity which have not been disclosed. Under LSR 1-2 and section 1915, the trust account must
6 include trust account activity and balances for the six months immediately proceeding application.
7 Moreover, more than six months have passed since the last month included in the Plaintiff's
8 submitted trust account information. Accordingly,

9 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to Proceed *In Forma*
10 *Pauperis* (#1) is **denied without prejudice**.

11 **IT IS FURTHER ORDERED** that Plaintiff shall file an Application to Proceed *in Forma*
12 *Pauperis*, accompanied by a signed financial certificate and certified copy of his prisoner trust fund
13 account for the previous six months if he is a prisoner. The Clerk of the Court shall send Plaintiff a
14 blank application form for *pro se* litigants who are incarcerated. In the alternative, Plaintiff shall
15 make the necessary arrangements to pay the filing fee of three hundred fifty dollars (\$350.00),
16 accompanied by a copy of this Order. Plaintiff shall have **thirty (30) days** from the date on which
17 this Order is entered to comply. Failure to comply will result in a recommendation to the District
18 Judge for dismissal of this action.

19 DATED this 13th day of March, 2013.

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23 Carl W. Hoffman, Jr.
24 United States Magistrate Judge
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